



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB2730

Introduced 1/28/2014, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1603.5 new

Amends the Mortgage Foreclosure Article of the Code of Civil Procedure. Defines "omitted subordinate interest". Provides that certain persons holding real estate encumbered by an omitted subordinate interest may file a strict foreclosure complaint consisting substantially of certain specified information. Provides that subject to the objection of the defendant, the court shall enter a judgment extinguishing the omitted subordinate interest by vesting absolute title to the mortgaged real estate in the plaintiff. Provides procedures by which a holder of an omitted subordinate interest may redeem the interest. Provides that a person whose omitted subordinate interest was not terminated by a prior foreclosure action does not have a right to file a strict foreclosure action. Effective immediately.

LRB098 17569 HEP 52678 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by adding  
5 Section 15-1603.5 as follows:

6 (735 ILCS 5/15-1603.5 new)

7 Sec. 15-1603.5. Strict foreclosure of an omitted  
8 subordinate interest.

9 (a) As used in this Section, "omitted subordinate interest"  
10 means a recorded subordinate interest in real estate where:

11 (1) the real estate is the subject of a foreclosure  
12 action under this Article;

13 (2) a motion to confirm judicial sale under subsection  
14 (b) of Section 15-1508 is either pending or has been  
15 granted;

16 (3) the interest attached to the real estate prior to  
17 the filing or recording of any notice in accordance with  
18 Sections 2-1901 and 15-1503; and

19 (4) the interest was not named in the foreclosure  
20 complaint.

21 (b) The holder of the certificate of sale or any person who  
22 acquired title pursuant to Section 15-1509 or any subsequent  
23 successor, assignee, transferee, or grantee who discovers an

1 omitted subordinate interest may file a strict foreclosure  
2 complaint. A complaint filed under this Section must include  
3 substantially the following:

4 (1) the identity of the plaintiff and how the plaintiff  
5 acquired its interest in the property which is the subject  
6 of the strict foreclosure;

7 (2) the docket number of the prior foreclosure action  
8 and the recording number and date of the mortgage that was  
9 previously foreclosed;

10 (3) the legal description, common address, and parcel  
11 identification number of the real estate which is the  
12 subject of the strict foreclosure;

13 (4) the recording number and a copy of the recorded  
14 omitted subordinate interest holder to be named as the  
15 defendant;

16 (5) the amount of the successful bid at the foreclosure  
17 sale, as stated in the report of sale in the prior  
18 foreclosure action, with a copy of the report of sale  
19 attached to the complaint;

20 (6) an allegation that, due to inadvertence or mistake  
21 or such other reason as may be applicable, the omitted  
22 subordinate interest was not made a party defendant in the  
23 prior foreclosure action and the omitted subordinate  
24 interest was not terminated by the judgment of foreclosure  
25 and when the subject property was sold by judicial sale;  
26 and

1           (7) a request for relief setting forth the redemption  
2           period as provided in this Section and identifying a  
3           contact by name and telephone number who will accept tender  
4           of the redemption amount.

5           (c) Subject to the objection of the defendant, the court  
6           shall enter a judgment extinguishing the omitted subordinate  
7           interest by vesting absolute title to the mortgaged real estate  
8           in the plaintiff, free and clear of all claims and liens  
9           (except liens of the United States of America that cannot be  
10           foreclosed without judicial sale).

11           (d) If the defendant objects to the entry of the judgment,  
12           the court, after a hearing, shall enter an order providing  
13           either:

14           (1) that good cause for the objection has not been  
15           shown by the defendant and the defendant has not agreed to  
16           pay the amount required to redeem, in which event the court  
17           shall proceed to enter the judgment; or

18           (2) that good cause for the objection has been shown by  
19           the defendant and the defendant has agreed to pay the  
20           amount required to redeem.

21           (e) The amount required to redeem shall be the sum bid at  
22           the prior foreclosure sale plus any costs and fees incurred  
23           subsequent to the sale for the payment of taxes, preservation  
24           of the property, or any other actions taken by the holder of  
25           the certificate of sale to protect its interest in the  
26           property.

1       The order shall state that upon payment of the redemption  
2       amount within the redemption period, which shall extend 30 days  
3       after the entry of the order, title to the real estate shall  
4       vest in the defendant who redeems pursuant to this Section.  
5       Title to the defendant shall be free and clear of all claims  
6       and liens (except liens of the United States of America that  
7       cannot be foreclosed without judicial sale). If the defendant  
8       subject to the order has not paid the amount required to redeem  
9       within the 30-day redemption period, the interest of the  
10       defendant in the property is terminated.

11       (f) A person whose omitted subordinate interest was not  
12       terminated by a prior foreclosure action does not have a right  
13       to file a strict foreclosure action.

14       Section 99. Effective date. This Act takes effect upon  
15       becoming law.